

ORIGINAL

Approved: AA SMort
ANDREW C. ADAMS / SARAH MORTAZAVI
Assistant United States Attorneys

Before: THE HONORABLE SARAH NETBURN
United States Magistrate Judge
Southern District of New York

21MAG12412

- - - - - X

UNITED STATES OF AMERICA

: SEALED COMPLAINT

- v. -

: Violation of
21 U.S.C. § 331, 333,
2402 & 2403; 18 U.S.C.
§§ 371 & 2.

ERIC LIRA,

Defendant.

: COUNTY OF OFFENSE:
: NEW YORK

- - - - - X

SOUTHERN DISTRICT OF NEW YORK, ss.:

RYAN SERKES, being duly sworn, deposes and says that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), and charges as follows:

COUNT ONE
(International Sports Doping)

1. From at least in or about June 2021, through in or about July 2021, in the Southern District of New York and elsewhere, ERIC LIRA, the defendant, knowingly carried into effect, attempted to carry into effect, and conspired with any other person to carry into effect a scheme in commerce to influence by use of a prohibited substance and prohibited method a major international sports competition, to wit, LIRA provided multiple performance enhancing drugs, including human growth hormone and erythropoietin, to athletes qualifying for and intending to compete in the 2020 Tokyo Olympics, in violation of Title 21, United States Code, Sections 2402 & 2403.

(Title 21, United States Code, Sections 2402 & 2403; Title 18, United States Code, Section 2.)

COUNT TWO
(Misbranding Conspiracy)

2. From in or about at least November 2020, through in or about July 2021, in the Southern District of New York and elsewhere, ERIC LIRA, the defendant, together with others known and unknown, willfully and knowingly did combine, conspire, confederate, and agree together and with each other to commit offenses against the United States, to wit, violations of Title 21, United States Code, Sections 331 and 333(a)(2).

3. It was a part and an object of the conspiracy that ERIC LIRA, the defendant, together with others known and unknown, with the intent to defraud and mislead, would and did introduce and deliver for introduction, and would and did cause the introduction and delivery for introduction, into interstate commerce, misbranded drugs, as defined by 21 U.S.C. § 353(b)(1), in violation of 21 U.S.C. §§ 331(a) and 333(a)(2).

(Title 18, United States Code, Section 371.)

The bases for my knowledge and for the foregoing charge are, in part, as follows:

4. I am a Special Agent with the FBI and I have been involved in the investigation of this matter. This affidavit is based upon my personal participation in the investigation of this matter, my conversations with law enforcement agents, witnesses and others, as well as my examination of reports and records. Because this affidavit is being submitted for the limited purpose of establishing probable cause, it does not include all the facts that I have learned during the course of my investigation. Where the contents of documents and the actions, statements, and conversations of others are reported herein, they are reported in substance and in part, except where otherwise indicated.

Background to the Rodchenkov Act and the FDCA

5. On December 4, 2020, the President of the United States signed into law the Rodchenkov Act, Pub. L. 116-206, incorporated into Title 21 of the United States Code at sections 2401 through 2404 (the "Act"). The Rodchenkov Act prohibits any person, other than an athlete, to knowingly carry into effect, attempt to carry into effect, or conspire with any other person to carry into effect a scheme in commerce to influence by use of

a prohibited substance or prohibited method any major international sports competition. 21 U.S.C. § 2402.

6. A "major international sports competition" is defined in the Act as a competition: "(i) in which one or more United States athletes and three or more athletes from other countries participate; (ii) that is governed by the anti-doping rules and principles of the Code [defined below]; and (iii) in which (I) the competition organizer or sanctioning body receives sponsorship or other financial support from an organization doing business in the United States; or (II) the competition organizer or sanctioning body receives compensation for the right to broadcast the competition in the United States." 21 U.S.C. § 2401(5). The "Code" referred to above is defined as the World Anti-Doping Code most recently adopted by the World Anti-Doping Association ("WADA") on March 5, 2003. See 21 U.S.C. § 2401(3).

7. The Olympic Games, as they were convened in Tokyo, Japan, in the summer of 2021, were among the "major international sports competitions" covered by the Act.

8. The Act defines "prohibited substance" by reference to the United Nations Educational, Scientific, and Cultural Organization International Convention Against Doping in Sport done at Paris October 19, 2005, and ratified by the United States in 2008 (the "Convention"). See 21 U.S.C. § 2401(4), (7), (8). The Convention, in turn, includes a "Prohibited List" of substances as Annex I to the Convention. Among the substances on the Prohibited List are "anabolic agents," including testosterone and "any other substances with a similar chemical structure or similar biological effect(s)"; "Erythropoietins (EPO) and agents affecting erythropoiesis [i.e., "blood builder" drugs intended to increase red blood cell count or oxygenation]; "peptide hormones and their releasing factors," including a category of "growth hormone[s]," Chorionic Gonadotrophin; and "Growth Factors and Growth Factor Modulators," including "Thymosin-β4 and its derivatives[,] e.g. TB-500.¹ Each of the substances listed in this paragraph are expressly prohibited both "in- and out-of-competition."²

¹ See Convention, Annex I, available at <https://unesdoc.unesco.org/ark:/48223/pf0000372368> (last visited December 22, 2021).

² A separate list of restricted substances are banned only "in competition."

9. Based on my training and experience and my discussions with other law enforcement officers, I am aware that under the Federal Food Drug and Cosmetic Act ("FDCA"), 21 U.S.C. § 301, et seq. , and related regulations, which, among other things, govern the manufacture and distribution of drugs, including prescription drugs, for humans and animals, a drug may be deemed "misbranded" or "adulterated" for any of several reasons. Most relevant to the investigation described herein, prescription drugs issued without a valid prescription are deemed misbranded. See 21 U.S.C. § 353(b)(1).

The Investigation of Eric Lira

10. From my discussions with an individual ("Individual-1") who is an associate of two track and field athletes ("Athlete-1" and "Athlete-2," respectively), I have learned, among other things:

a. On or about July 12 and 13, 2021, Individual-1, at the request of Athlete-2, who was then outside of the United States, entered a residence in the vicinity of Jacksonville, Florida (the "Residence"), where Athlete-2 had recently resided. Individual-1 intended to gather Athlete-2's belongings and to transfer those belongings to a near-by storage facility. At the time that Individual-1 entered the Residence, Athlete-1 was abroad, training for the then-upcoming Tokyo Olympics.

b. Inside the residence, Individual-1 found and photographed packages and vials that appeared to be various performance enhancing drugs, including drugs on the Prohibited List described above. Individual-1 subsequently provided those photographs to the FBI. For example:

- i. Individual-1 provided photographs of a United States Postal Service parcel from "Eric Lira / [redacted street address] / El Paso, TX" (the "El Paso Address") with a particular telephone number for Lira (the "Lira Number"). The same parcel was addressed to Athlete-1 at an address other than the address of the Residence.
- ii. Individual-1 also provided photographs of the content of that parcel, which was a single box

containing a drug appearing to have been manufactured by a Mexico-based company pharmaceutical company. The box was labeled: "Xerendip® Somatropina," and, in Spanish, "injectable." From my review of publicly available sources of information regarding the content and effect of various drugs, I have learned that somatropin (or, in Spanish, "somatropina") is a human growth hormone, which, as noted above, is among the prohibited substances on the Prohibited List.³

- iii. Individual-1 also provided a photograph of a small, clear, sealable bag containing three vials of white powder. The bag was labeled "IGF [illegible] R3." From my experience in this case and from my conversations with other FBI agents working on separate investigations of performance enhancing substances, I know that "IGF" is an abbreviation for "insulin growth factor." Among the substances on the Prohibited List is "Insulin-like Growth Factor-1 (IGF-1) and its analogues."
- iv. Individual-1 further provided a photograph of a box of 100 hypodermic needles, insulin injection needles, and various other drugs including A) a separate box of somatropin, also from what appears to have been a Mexico- or Central American pharmaceutical company, bearing the brand name "Humatrope;" and B) a box labeled as containing a "prefilled syringe"

³ Subsequent to July 13, 2021, I obtained the same box of Xerendip from the storage locker into which Individual-1 moved this drug and other items, having obtained consent to enter the storage facility. Upon inspection of the box itself, I have noted that the box indicates, in Spanish, that the drug is to be administered only as prescribed by a physician ("Dosis: Lo que el médico señale."). I also received from the same storage locker a used box of a Mexico-manufactured, injectable erythropoietin drug, Alveritin. The box, which originally contained six vials of that substance, was found containing only one remaining vial. As described in more detail below, both the photographs of these categories of drugs provided by Individual-1 and the drugs that I obtained subsequent to July 13, 2021, are drugs of the same categories discussed in the course of communications between ERIC LIRA, the defendant, and Athlete-1.

6

holding .5 ml of "recombinant human erythropoietin injection." This final drug's box included a symbol representing that it is a prescription drug, i.e., "Rx."

11. From my conversations with representatives of the United States Anti-Doping Agency, and my review of data contained on the cellular telephone of Athlete-1 (the "Athlete-1 Phone," described in more detail below), I have learned, among other things, that:

a. On or about July 19, 2021, Athlete-1, who was then in Slovakia preparing for the upcoming Tokyo Olympics, underwent an out-of-competition blood collection for purposes of drug testing by the Athletics Integrity Unit, a body charged with ensuring fair competition and prevention of doping at the Tokyo Olympics, among other competitions. The results of that testing reflected Athlete-1's use of human growth hormone.

b. On or about July 30, 2021, Athlete-1 was provisionally suspended from Olympic competition, including in the women's 100m semi-finals set to take place that same evening. Athlete-1 later failed in her appeal of that suspension, and received a multi-year ban from competition.

12. On or about August 2, 2021, officers of Customs and Border Protection ("CBP"), pursuant to their border search authority and utilizing a passcode provided by Athlete-1, conducted a limited review of a cellphone in the possession of Athlete-1, i.e., the Athlete-1 Phone, as she was returning to the United States from Tokyo, Japan. The CBP officers, along with a Special Agent of the FBI, preserved copies of a series of WhatsApp messages, including a series of WhatsApp encrypted voice messages, from the Athlete-1 Phone, and thereafter provided me with copies of the same. These communications were obtained from a chain of text and voice communications with a contact identified in the Athlete-1 Phone as "Eric Lira Doctor," i.e., ERIC LIRA, the defendant, and that contact is listed in the Athlete-1 Phone as using the Lira Number. From my review of these files and messages, I have learned, among other things, that:

a. On or about November 8, 2020, Athlete-1 directed LIRA to visit a website, <https://superhumanstore.com/shg>. From my review of this website, which remains publicly accessible as of the date of this

7

Complaint, I have found that Superhumanstore.com is an online marketplace for various performance enhancing drugs. The website offers to sell, among other things, growth hormone and IGF. See SuperHumanStore.com, "Growth Hormone," available at <https://www.superhumanstore.com/shg/shop/product-tag/growth-hormone/> (last visited December 28, 2021).

b. On or about November 17, 2020, Athlete-1 requested that LIRA provide her with 4 vials or doses of "honey" (which, based on the timing and content of the communication, as well as on the drugs later found at the Residence, I understand to be a reference to human growth hormone) and 2 vials or doses of "epo," that is, erythropoietin.

c. On or about November 18, 2020, Athlete-1 and LIRA corresponded regarding TB-500, IGF, and gonadotropin (a peptide hormone on the Prohibited List). Athlete-1 asked LIRA what quantity of these drugs she would need for both herself and Athlete-2.

d. On or about April 13, 2021, LIRA wrote to the Athlete-1 Phone, "I will send you the 2 honeys an[d] 4 bac water." I understand that "bac water" refers to bacteriostatic water, a sterile solution used to dilute or dissolve injectable medications.

e. On or about April 14, 2021, in the course of a conversation about drugs provided to Athlete-1 by LIRA, Athlete-1 wrote, "This one is giving me a hard time to use too . . . I have mixed it but it's not setting right like the Genotropin.⁴ I don't want to waste it." In reply, LIRA wrote, "[Athlete-1]. . . let's do video call in a few minutes."

f. On or about June 1, 2021, Athlete-1 sent a list of drugs to LIRA, writing, "List of this we will need also / honey / iron / glucose water / igf / Tb 500 / Epo."

g. Also on or about June 1, 2021, in the course of a conversation about booking travel for LIRA from El Paso, Texas, to visit Athlete-1 in Florida, Athlete-1 requested "Eric Lira Doctor" to provide his "full name date of birthday," to

⁴ Genotropin is the Pfizer brand name for a prescription recombinant human growth hormone. See Genotropin.com, "Prescribing Information," available at <http://labeling.pfizer.com/ShowLabeling.aspx?id=577> (last visited on December 28, 2021).

8

which LIRA replied "Eric Lira / Male / [Date of birth in the year 1980]."

h. On or about June 7, 2021, LIRA, while in New York City, and during a period that the cellular telephone associated with the Lira Number was transmitting communications through cell towers in the Southern District of New York (as reflected in geolocation data provided by the service provider for the Lira Number), engaged in further conversations with Athlete-1 about LIRA's intent to travel from New York, to El Paso, and then to Florida, for the purpose of providing misbranded performance enhancing drugs to Athlete-1 and Athlete-2. For example, at approximately 10:12 a.m., Athlete-1 transmitted a voice message to LIRA: "Hey Eric, I just sent you \$2,500, can you confirm it via Zelle [an electronic payment application]? And also, remember I told you [Athlete-2] had hurt his hamstring, so anything that will help the hamstring really heal fast you can actually bring it as well, ok?" After further discussing Athlete-1's payments to LIRA, Athlete-1 continued, at approximately 10:29 a.m.: "I had a bad race yesterday, Eric. 11.02. Upset, angry, and disappointed. . . . You have L arginine injection?"

i. On or about June 13, 2021, Athlete-1 wrote to LIRA, "So I took 2000ui of the E yesterday, is it safe to take a test this morning?" LIRA replied, "Good day [Athlete-1] . . . 2000 ui is a low dosage." Athlete-1 replied further, "Remember I took it Wednesday and then yesterday again / I wasn't sure so I didn't take a test / I just let them go so it will be a missed test."

j. On or about June 22, 2021, Athlete-1 wrote to LIRA, "Hola amigo / Eric my body feel so good / I just ran 10.63 in the 100m on Friday / with a 2.7 wind / I am sooooo happy / Ericccccccc / Whatever you did, is working so well."

k. On or about July 19, 2021 (that is, the same day of Athlete-1's blood collection resulting in a finding of human growth hormone), Athlete-1 wrote to LIRA, "In Slovakia. Leaving for Tokyo on Saturday. . . . Any final word doctor? I know we can't do much at this moment." LIRA replied, "What you did . . . is going to help you for the upcoming events. You are doing your part and you will be ready to dominate" (ellipsis in original).

1. On or about July 30, 2021 (that is, the same date as Athlete-1's provisional suspension, described above), Athlete-1 wrote to LIRA, "Call me urgently. . . [t]hey said one of my result came out positive on HGH . . . I don't understand." Athlete-1 then sent to LIRA a copy of a test result reflecting the positive test result for human growth hormone resulting from her July 19, 2021, blood sample, described above.

13. In addition to listing "Eric J Lira" as the named subscriber, subscriber information provided by T-Mobile relating to the Lira Number reflects that the Lira Number's billing address is the El Paso Address, that is, the same address listed on the parcel discovered by Individual-1, described above, and that the subscriber's date of birth is the same as that provided by LIRA in the quoted communication in paragraph 12(g), above.

14. I have reviewed records produced by a particular bank located in El Paso, Texas ("Bank-1"), from whom ERIC LIRA, the defendant, applied for a Paycheck Protection Program loan in or about March 2021. Among the information and materials submitted in connection with that loan application was a copy of LIRA's Texas driver's license listing the El Paso Address as LIRA's residence, as well as application materials stating that LIRA's contact number was that associated with the Lira Number as reflected on the Athlete-1 Phone.

15. From my review of publicly available information obtainable through the State of Texas, as well as social media accounts maintained by ERIC LIRA, the defendant, I have learned, among other things:

a. According to publicly available information maintained by the Texas Comptroller of Public Accounts, LIRA, using the El Paso Address, is listed as the managing member of "Med Sport LLC." Apart from a publicly reported Paycheck Protection Program loan, I have been unable to find any open source information regarding the activities of Med Sport LLC.

b. LIRA refers to himself on certain social media platforms as a "kinesiologist and naturopathic ND." From my review of online resources available through an organization known as the American Association of Naturopathic Physicians, I have learned, among other things, that "[n]aturopathic doctors are educated and trained in accredited naturopathic medical colleges. They diagnose, prevent, and treat acute and chronic illness to restore and establish optimal health by supporting

10

the person's inherent self-healing process."⁵ However, "naturopathic doctors" are not among the class of licensed health care professionals with the authority to issue prescriptions in many states, including in Texas, New York, and Florida.

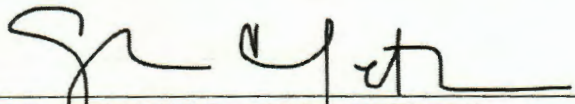
c. LIRA does not appear as a listed licensee on the publicly accessible license verification pages for the Texas Medical Board, the Texas Board of Physical Therapy Examiners, the New York State Office of the Professions (as either a physician or a physical therapist), or the Florida Department of Health (encompassing licensee data for, among other groups of professionals, the Board of Naturopathic Medicine).

WHEREFORE, deponent respectfully requests that a warrant be issued for the arrest of ERIC LIRA, the defendant, and that he be arrested, and imprisoned or bailed, as the case may be.

/s authorized electronic signature

Special Agent Ryan Serkes
Federal Bureau of Investigation

Sworn to by reliable electronic means,
in accordance with Fed. R. Crim. P. 4.1,
this 29th day of December, 2021


THE HONORABLE SARAH NETBURN
UNITED STATES MAGISTRATE JUDGE
SOUTHERN DISTRICT OF NEW YORK

⁵ See What is a Naturopathic Doctor?, AMERICAN ASSOCIATION OF NATUROPATHIC PHYSICIANS, available at <https://naturopathic.org/page/WhatisaNaturopathicDoctor> (last visited Dec. 28, 2021).